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6 Attorneys for Complainant

7  
8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2010-2

12 **BARBARA ANN SOUTER**  
56869 Mountain View Trail  
13 Yucca Valley, California 92284

**A C C U S A T I O N**

14 Registered Nurse License No. 458716

15 Respondent.

16  
17 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Accusation solely in her official capacity as the  
20 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer  
21 Affairs.

22 **License History**

23 2. On or about August 31, 1990, the Board issued Registered Nurse License  
24 Number 458716 ("license") to Barbara Ann Souter ("Respondent"). The license expired on  
25 September 30, 2008, and has not been renewed.

26 **JURISDICTION**

27 3. Section 2750 of the Business and Professions Code ("Code") provides, in  
28 pertinent part, that the Board may discipline any licensee, including a licensee holding a

1 temporary or an inactive license, for any reason provided in Article 3 (commencing with Code  
2 section 2750) of the Nursing Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a  
4 license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding  
5 against the licensee or to render a decision imposing discipline on the license. Under Code  
6 section 2811, subdivision (b), the Board may renew an expired license at any time within eight  
7 years after the expiration.

8 5. Code section 118, subdivision (b), provides that the suspension,  
9 expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to  
10 proceed with a disciplinary action during the period within which the license may be renewed,  
11 restored, reissued or reinstated.

### 12 STATUTORY PROVISIONS

13 6. Code section 2761 states, in pertinent part:

14 The board may take disciplinary action against a certified or  
15 licensed nurse or deny an application for a certificate or license for any of  
the following:

16 (a) Unprofessional conduct, . . .

17 (f) Conviction of a felony or of any offense substantially  
18 related to the qualifications, functions, and duties of a registered nurse, in  
19 which event the record of the conviction shall be conclusive evidence  
thereof.

20 7. Code section 2762 states, in pertinent part:

21 In addition to other acts constituting unprofessional conduct  
22 within the meaning of this chapter [the Nursing Practice Act], it is  
unprofessional conduct for a person licensed under this chapter to  
23 do any of the following:

24 (b) Use any controlled substance as defined in Division  
25 10 (commencing with Section 11000) of the Health and Safety  
26 Code, or any dangerous drug or dangerous device as defined in  
27 Section 4022, or alcoholic beverages, to an extent or in a manner  
dangerous or injurious to himself or herself, any other person, or  
the public or the extent that such use impairs his or her ability to  
conduct with safety to the public the practice authorized by his or  
her license.

28 ///

1 (c) Be convicted of a criminal offense involving the  
2 prescription, consumption, or self-administration of any of the  
3 substances described in subdivisions (a) and (b) of this section, or  
4 the possession of, or falsification of a record pertaining to, the  
5 substances described in subdivision (a) of this section, in which  
6 event the record of the conviction is conclusive evidence thereof.

### 7 COST RECOVERY

8 8. Code section 125.3 provides, in pertinent part, that the Board may request  
9 the administrative law judge to direct a licentiate found to have committed a violation or  
10 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
11 and enforcement of the case.

### 12 FIRST CAUSE FOR DISCIPLINE

#### 13 **(Criminal Conviction)**

14 9. Respondent is subject to disciplinary action under Code section 2761,  
15 subdivision (f), in that Respondent has been convicted of a crime substantially related to the  
16 functions, duties, and qualifications of a registered nurse. On or about December 12, 2007, in the  
17 Superior Court of California, County of San Bernardino, in the case entitled, *People of the State*  
18 *of California v. Barbara Ann Souter* (Super. Ct. San Bernardino County, Joshua Tree District,  
19 2007, Case No. TMB-700490), Respondent was convicted on her plea of guilty of violating  
20 Vehicle Code section 23152, subdivision (a) with a Special Allegation of Vehicle Code section  
21 23578 (Drive While Under the Influence of Alcohol and/or Drugs with a .08% B.A. or Higher).  
22 The circumstances of the crime are that on or about April 17, 2007, Respondent did unlawfully,  
23 while having .08% and more, by weight, of alcohol in her blood, drive a vehicle, during which  
24 time she was involved in a traffic collision with a parked vehicle. As a result of the collision,  
25 Respondent was transported to a local hospital.

### 26 SECOND CAUSE FOR DISCIPLINE

#### 27 **(Criminal Conviction Involving the Consumption of Alcohol and/or Drugs)**

28 10. Respondent is subject to disciplinary action under Code section 2761,  
subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762,  
subdivision (c), in that Respondent has been convicted of a crime involving the consumption of

1 alcoholic beverages and/or drugs or under their combined influence, as set forth in paragraph 9,  
2 above.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Use Alcoholic Beverages and/or Drugs in a Manner Dangerous or Injurious)**

5 11. Respondent is subject to disciplinary action under Code section 2761,  
6 subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762,  
7 subdivision (b), in that Respondent used alcoholic beverages and/or drugs to an extent or in a  
8 manner dangerous or injurious to herself, any other person, or to the public, as set forth in  
9 paragraph 9, above.

10 **Prior Discipline**

11 12. In a prior disciplinary matter before the Board of Registered Nursing, in  
12 the case entitled, *In the Matter of the Accusation Against: Barbara Ann Souter*, Registered Nurse  
13 License No. RN 458716, Board Case No. 2002-161, effective February 27, 2003, Respondent's  
14 license was revoked with the revocation stayed and placed on three years probation with terms  
15 and conditions of probation. The discipline was based upon a finding that Respondent violated  
16 Code sections 490, 2761, subdivisions (a) and (f), and 2762, subdivision (a) and (c), as the result  
17 of Respondent's criminal conviction for violating Code sections 4324, subdivision (a) (Forgery  
18 of a Prescription) and Code section 4325, subdivision (a) (Possession of a Blank Prescription),  
19 both misdemeanors, and unprofessional conduct.

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1 **PRAYER**

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 458716 issued  
5 to Barbara Ann Souter;

6 2. Ordering Barbara Ann Souter to pay the Board the reasonable costs of the  
7 investigation and enforcement of this case, pursuant to Code section 125.3; and,

8 3. Taking such other and further action as deemed necessary and proper.  
9

10 DATED: 7/2/09

11  
12 *for* Stacie Berume  
13 RUTH ANN TERRY, M.P.H., R.N.  
14 Executive Officer  
15 Board of Registered Nursing  
16 Department of Consumer Affairs  
17 State of California  
18 Complainant  
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26

**BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

BARBARA ANN SOUTER  
105 Spanner St.  
Monrovia, CA 91016

Registered Nurse License No. RN 458716

Respondent.

Case No. 2002-161

OAH No. L-2002070121

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on February 27, 2003.

It is so ORDERED January 28, 2003.

*Sandra K. Erickson*

\_\_\_\_\_  
FOR THE BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS

1 BILL LOCKYER, Attorney General  
of the State of California  
2 GILLIAN E. FRIEDMAN, State Bar No. 169207  
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7 Attorneys for Complainant

8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

11 BARBARA ANN SOUTER  
12 105 Spanner St.  
13 Monrovia, CA 91016

14 Registered Nurse License No. RN 458716

15 Respondent.

Case No. 2002-161

OAH No. L-2002070121

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

16  
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
18 above-entitled proceedings that the following matters are true:

19 PARTIES

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of  
21 the Board of Registered Nursing. She brought this action solely in her official capacity and is  
22 represented in this matter by Bill Lockyer, Attorney General of the State of California, by Gillian  
23 E. Friedman, Deputy Attorney General.

24 2. Barbara Ann Souter (Respondent) is representing herself in this  
25 proceeding and has chosen not to exercise her right to be represented by counsel.

26 3. On or about August 31, 1990, the Board of Registered Nursing issued  
27 Registered Nurse License No. RN 458716 to Respondent. The License was in full force and  
28 effect at all times relevant to the charges brought in Accusation No. 2002-161 and will expire on

1 September 30, 2004, unless renewed.

2 JURISDICTION

3 4. Accusation No. 2002-161 was filed before the Board of Registered  
4 Nursing (Board) , Department of Consumer Affairs, and is currently pending against  
5 Respondent. The Accusation and all other statutorily required documents were properly served  
6 on Respondent on June 18, 2002. Respondent timely filed her Notice of Defense contesting the  
7 Accusation. A copy of Accusation No. 2002-161 is attached as exhibit A and incorporated  
8 herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and  
11 allegations in Accusation No. 2002-161. Respondent has also carefully read, and understands the  
12 effects of this Stipulated Settlement and Disciplinary Order.

13 6. Respondent is fully aware of her legal rights in this matter, including the  
14 right to a hearing on the charges and allegations in the Accusation; the right to be represented by  
15 counsel at her own expense; the right to confront and cross-examine the witnesses against her;  
16 the right to present evidence and to testify on her own behalf; the right to the issuance of  
17 subpoenas to compel the attendance of witnesses and the production of documents; the right to  
18 reconsideration and court review of an adverse decision; and all other rights accorded by the  
19 California Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up  
21 each and every right set forth above.

22 CULPABILITY

23 8. Respondent admits the truth of each and every charge and allegation in  
24 Accusation No. 2002-161.

25 9. Respondent agrees that her Registered Nurse License is subject to  
26 discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the  
27 Disciplinary Order below.

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CONTINGENCY

10. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. RN 458716 issued to Respondent is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

**Severability Clause** - Each term and condition of probation contained herein is a separate and distinct term and condition. If any term and condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each term and condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of

1 compliance with this term, Respondent shall submit completed fingerprint cards and fingerprint  
2 fees within 45 days of the effective date of the decision, unless previously submitted as part of  
3 the licensure application process. Respondent shall submit a recent 2" x 2" photograph of  
4 himself or herself within 45 days of the effective date of the final decision.

5           2.     **Comply with Probation Program.** Respondent shall fully comply with  
6 the terms and conditions of the Probation Program established by the Board and cooperate with  
7 representatives of the Board in its monitoring and investigation of Respondent's compliance with  
8 the Probation Program. Respondent shall inform the Board in writing within no more than 15  
9 days of any address change and shall at all times maintain an active, current license status with  
10 the Board, including during any period of suspension.

11           3.     **Report in Person.** Respondent, during the period of probation, shall appear  
12 in person at interviews/meetings as directed by the Board or its designated representatives.

13           4.     **Residency or Practice Outside of State.** Periods of residency or practice  
14 as a registered nurse outside of California will not apply to the reduction of this probationary  
15 term. Respondent must provide written notice to the Board within 15 days of any change of  
16 residency or practice outside the state.

17           5.     **Submit Written Reports.** Respondent, during the period of probation,  
18 shall submit or cause to be submitted such written reports/declarations and verification of actions  
19 under penalty of perjury, as required by the Board. These reports/declarations shall contain  
20 statements relative to Respondent's compliance with all the terms and conditions of the Board's  
21 Probation Program. Respondent shall immediately execute all release of information forms as  
22 may be required by the Board or its representatives.

23           **Provide Decision** - Respondent shall provide a copy of this decision to the  
24 nursing regulatory agency in every state and territory in which she has a registered nurse license.

25           6.     **Function as a Registered Nurse.** Respondent, during the period of  
26 probation, shall engage in the practice of registered nursing in California for a minimum of 24  
27 hours per week for 6 consecutive months or as determined by the Board.

28           For purposes of compliance with the section, "engage in the practice of registered

1 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or  
2 work in any non-direct patient care position that requires licensure as a registered nurse.

3 The Board may require that advanced practice nurses engage in advanced practice  
4 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the  
5 Board.

6 If Respondent has not complied with this condition during the probationary term,  
7 and Respondent has presented sufficient documentation of her good faith efforts to comply with  
8 this condition, and if no other conditions have been violated, the Board, in its discretion, may  
9 grant an extension of Respondent's probation period up to one year without further hearing in  
10 order to comply with this condition.

11 7. **Employment Approval and Reporting Requirements.** Respondent  
12 shall obtain prior approval from the Board before commencing any employment, paid or  
13 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all  
14 performance evaluations and other employment related reports as a registered nurse upon request  
15 of the Board.

16 Respondent shall provide a copy of this decision to her employer and immediate  
17 supervisor prior to commencement of any nursing or other health care related employment.

18 Respondent shall notify the Board in writing within seventy-two (72) hours after  
19 she obtains any nursing or other health care related employment, when such employment is not  
20 as a registered nurse. Respondent shall notify the Board in writing within seventy-two (72) hours  
21 after she is terminated from any registered nursing, other nursing, or other health care related  
22 employment with a full explanation of the circumstances surrounding the termination.

23 8. **Supervision.** Respondent shall obtain prior approval from the Board  
24 regarding Respondent's level of supervision and/or collaboration before commencing any  
25 employment as a registered nurse.

26 Respondent shall practice only under the direct supervision of a registered nurse  
27 in good standing (no current discipline) with the Board, unless alternative methods of supervision  
28 and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

(a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

(b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours Respondent works.

(c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with Respondent at least twice during each shift worked.

(d) Home Health Care - If Respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with Respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by Respondent with or without Respondent present.

9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined

1 worksite(s) and shall not work in a float capacity.

2 If Respondent is working or intends to work in excess of 40 hours per week, the  
3 Board may request documentation to determine whether there should be restrictions on the hours  
4 of work.

5 10. **Complete a Nursing Course(s).** Respondent shall comply with the  
6 appropriate requirement, as specified in the decision:

7 a) Respondent, at her own expense, shall enroll and successfully complete a  
8 course(s) relevant to the practice of registered nursing no later than six months prior to the end of  
9 her probationary term; or

10 b) Respondent shall be suspended from the practice of registered nursing, until  
11 she has enrolled in and successfully completed a course(s) relevant to the practice of registered  
12 nursing.

13 Respondent shall obtain prior approval from the Board before enrolling in the  
14 course(s). Respondent shall submit to the Board the original transcripts or certificates of  
15 completion for the above required course(s). The Board shall return the original documents to  
16 Respondent after photocopying them for its records.

17 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with  
18 its investigation and enforcement pursuant to Business and Professions Code Section 125.3 in the  
19 amount of \$2,729.00. Respondent shall be permitted to pay these costs in a payment plan  
20 approved by the Board, with payments to be completed no later than three months prior to the  
21 end of the probation term.

22 12. **Violation of Probation.** If Respondent violates the conditions of her  
23 probation, the Board after giving Respondent notice and an opportunity to be heard, may set  
24 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's  
25 license.

26 If during the period of probation, an accusation or petition to revoke probation has  
27 been filed against Respondent's license or the Attorney General's Office has been requested to  
28 prepare an accusation or petition to revoke probation against Respondent's license, the

1 probationary period shall automatically be extended and shall not expire until the accusation or  
2 petition has been acted upon by the Board. Upon successful completion of probation,  
3 Respondent's license will be fully restored.

4           **13. Physical Examination.** Within 45 days of the effective date of this  
5 decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or  
6 physician assistant, who is approved by the Board before the assessment is performed, submit an  
7 assessment of Respondent's physical condition and capability to perform the duties of a  
8 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If  
9 medically determined, a recommended treatment program will be instituted and followed by  
10 Respondent with the physician, nurse practitioner, or physician assistant providing written  
11 reports to the Board on forms provided by the Board.

12           If Respondent is determined to be unable to practice safely as a registered nurse,  
13 the licensed physician, nurse practitioner, or physician assistant making this determination shall  
14 immediately notify the Probation Program and Respondent by telephone. Respondent shall  
15 immediately cease practice and shall not resume practice until notified by the Probation Monitor.  
16 During this period of suspension, Respondent shall not engage in any practice for which a license  
17 issued by the Board is required until the Probation Monitor has notified Respondent that a  
18 medical determination permits Respondent to resume practice.

19           **14. Participate in Treatment/Rehabilitation Program for Chemical**  
20 **Dependence.** Respondent, at her expense, shall successfully complete during the probationary  
21 period or shall have successfully completed prior to commencement of probation a Board-  
22 approved treatment/rehabilitation program of at least six months. As required, reports shall be  
23 submitted by the program on forms provided by the Board. If Respondent has not completed a  
24 Board-approved treatment/rehabilitation program prior to commencement of probation,  
25 Respondent, within 45 days from the effective date of the decision, shall be enrolled in a  
26 program. If a program is not successfully completed within the first nine months of probation,  
27 the Board shall consider Respondent in violation of probation.

28           Based on Probation Program recommendation, each week Respondent shall be

1 required to attend at least one, but no more than five 12-step recovery meetings or equivalent  
2 (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as  
3 approved and directed by the Board. If a nurse support group is not available, an additional 12  
4 step meeting or equivalent shall be added. Respondent shall submit dated and signed  
5 documentation confirming such attendance to the Board during the entire period of probation.  
6 Respondent shall continue with the recovery plan recommended by the treatment/rehabilitation  
7 program or a licensed mental health examiner and/or other ongoing recovery groups.

8           **15. Abstain from Use of Psychotropic (Mood-altering) Drugs.** Respondent  
9 shall completely abstain from the possession, injection or consumption by any route of all  
10 psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a  
11 health care professional legally authorized to do so and are part of documented medical  
12 treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by  
13 the prescribing physician or dentist, a report identifying the medication, dosage, the date the  
14 medication was prescribed, Respondent's prognosis, the date the medication will no longer be  
15 required, and the effect on the recovery plan, if appropriate.

16           Respondent shall identify for the Board a single physician, nurse practitioner or  
17 physician assistant who shall be aware of Respondent's history of substance abuse and will  
18 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled  
19 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician  
20 assistant shall report to the Board on a quarterly basis Respondent's compliance with this  
21 condition. If any substances considered addictive have been prescribed, the report shall identify a  
22 program for the time limited use of any such substances.

23           The Board may require the single coordinating physician, nurse practitioner, or  
24 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in  
25 addictive medicine.

26           **16. Submit to Tests and Samples.** Respondent, at her expense, shall  
27 participate in a random, biological fluid testing or a drug screening program which the Board  
28 approves. The length of time and frequency will be subject to approval by the Board.

Respondent is responsible for keeping the Board informed of Respondent's current telephone number at all times. Respondent shall also ensure that messages may be left at the telephone number when she is not available and ensure that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and Respondent shall be considered in violation of probation.

In addition, Respondent, at any time during the period of probation, shall fully cooperate with the Board or any of its representatives, and shall, when requested, submit to such tests and samples as the Board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

If Respondent has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board files a petition to revoke probation or an accusation, the Board may suspend Respondent from practice pending the final decision on the petition to revoke probation or the accusation.

17. **Mental Health Examination.** Respondent shall, within 45 days of the effective date of this decision, have a mental health examination including psychological testing as appropriate to determine her capability to perform the duties of a registered nurse. The examination will be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the Board. The examining mental health practitioner will submit a written report of that assessment and recommendations to the Board. All costs are the responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by Respondent.

If Respondent is determined to be unable to practice safely as a registered nurse, the licensed mental health care practitioner making this determination shall immediately notify the Probation Program and Respondent by telephone. Respondent shall immediately cease practice and may not resume practice until notified by the Probation Monitor. During this period of suspension, Respondent shall not engage in any practice for which a license issued by the Board is required, until the Probation Monitor has notified Respondent that a mental health determination permits Respondent to resume practice.

18. **Therapy or Counseling Program.** Respondent, at her expense, shall participate in an on-going counseling program until such time as the Board releases her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

## ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: Oct 24, 2002


  
BARBARA ANN SOUTER  
Respondent

## ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED: October 30, 2002

BILL LOCKYER, Attorney General  
of the State of California

  
GILLIAN E. FRIEDMAN  
Deputy Attorney General  
Attorneys for Complainant

**Exhibit A**  
**Accusation No. 2002-161**

1 BILL LOCKYER, Attorney General  
of the State of California  
2 GILLIAN E. FRIEDMAN, State Bar No. 169207  
Deputy Attorney General  
3 California Department of Justice  
300 So. Spring Street, Suite 1702  
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6 Attorneys for Complainant

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9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. *2002-161*

11 BARBARA ANN SOUTER  
12 105 Spanner Street  
Monrovia, California 91016

**A C C U S A T I O N**

13 Registered Nursing License No. 458716

14 Respondent.  
15

16 Complainant alleges:

17 PARTIES

18 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation  
19 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,  
20 Department of Consumer Affairs.

21 2. On or about August 31, 1990, the Board of Registered Nursing issued  
22 Registered Nursing License Number 458716 to BARBARA ANN SOUTER (Respondent). The  
23 Registered Nursing License was in full force and effect at all times relevant to the charges  
24 brought herein and will expire on September 30, 2002, unless renewed.  
25

26 STATUTORY PROVISIONS

27 3. Section 2750 of the Business and Professions Code (Code) provides, in  
28 pertinent part, that the Board may discipline any licensee, including a licensee holding a

temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

....

5. Section 2762 of the Code states:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

....

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

....

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6. Section 490 of the Code states:

"A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

8. DRUGS

"Phentermine", a Schedule IV controlled substance as designated by Health and Safety Code section 11057(f)(2).

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

9. Respondent is subject to disciplinary action under Code sections 2761(f) and 490 in that on or about July 19, 1999, in the Municipal Court of Citrus Judicial District, County of Los Angeles, State of California, Case No. 9JM05609 entitled *People v. Barbara Ann Souter*, Respondent was convicted on her plea of guilty of violating Code section 4324(a) (Forgery of a Prescription) and Code section 4325(a) (Possession of Blank Prescription Forms).

10. The circumstances of the crime are on or about April 27, 1999, Respondent did unlawfully forge a prescription under the name of Dr. Park for the prescription medication of a controlled substance, to wit: Phentermine; and did unlawfully manufacture, copy, reproduce or possess, or cause to be manufactured, copied, reproduced, or possessed any

1 prescription blank that purports to bear the name, address, and federal registry or other  
2 identifying information of a physician or other person authorized by law to dispense, administer,  
3 or prescribe controlled substances, to wit: Dr. Lee and U.S. Family Care Medical Center.

4 SECOND CAUSE FOR DISCIPLINE

5 (Conviction of a Crime Involving Prescription Forms)

6 11. Respondent is subject to disciplinary action under Code section 2761(a) on  
7 the grounds of unprofessional conduct as defined in Code section 2762(c) in that on or about July  
8 19, 2001, in the Municipal Court of Citrus Judicial District, County of Los Angeles, State of  
9 California, Case No. 9JM05609 entitled *People v. Barbara Ann Souter*, Respondent was  
10 convicted on her plea of guilty of violating Code section 4324(a) (Forgery of a Prescription) and  
11 Code section 4325(a) (Possession of Blank Prescription Forms).

12 THIRD CAUSE FOR DISCIPLINE

13 (Obtain, Possess, Self-Administer and Prescribe a Controlled Substance)

14 12. Respondent is subject to disciplinary action under Code section 2761(a) on  
15 the grounds of unprofessional conduct as defined in Code section 2762(a) in that respondent did  
16 the following:

17 a. On or about April 27, 1999, Respondent obtained Phentermine, a controlled  
18 substance, by fraud, deceit, misrepresentation or subterfuge or by the concealment of a material  
19 fact, in violation of Health and Safety Code section 11173(a) by forging a prescription under the  
20 name of Dr. Park for her own personal use.

21 b. On or about April 27, 1999, Respondent possessed Phentermine, a controlled  
22 substance in violation of Code section 4060.

23 c. On or about April 27, 1999, Respondent prescribed a controlled substance to  
24 herself without lawful authority.

25 d. From or about 1996 through 1999, Respondent self-administered Phentermine,  
26 a controlled substance, without lawful direction from a licensed physician and surgeon, dentist,  
27 or podiatrist.


28 //

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nursing License Number 458716, issued to BARBARA ANN SOUTER;
2. Ordering BARBARA ANN SOUTER to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 6/11/02

  
RUTH ANN TERRY, M.P.H., R.N.  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

03579110-LA2001AD2409

2Accusation.wpt 10/19/01

JAS: 1/7/02

This certifies that this is a true and correct copy of records on file in this office pertaining to:

**BARBARA ANN SOUTER**

BOARD OF REGISTERED NURSING,

Leticia Castillo

Enforcement Program